
BZA-1845
GEORGE & BRENDA STRICKLER
Variance

STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioners, who are also the owners and represented by surveying firm Starr Associates, are requesting a 13' front setback variance instead of the required 25' 30' from Eisenhower Road which is classified as a ~~rural local road~~ collector. This request serves two purposes: to legitimize an existing single-family home and permit a proposed addition. The R1 & FP-zoned property is located at 4405 Eisenhower Road, Fairfield 13 (SW) 23-4. (UZO 4-2-2)

AREA ZONING PATTERNS:

The property is zoned R1, single-family residential and FP, flood plain. Per the petitioner's submitted site plan, both the existing house and the proposed addition are well outside of the flood plain.

All surrounding properties are zoned R1 and FP associated with the Wildcat Creek.

AREA LAND USE PATTERNS:

This area is solidly single-family residential with Lockwood, Wildcat Ridge and Buckridge Subdivisions located to the north across Eisenhower Road. Farther east the properties become more agricultural.

TRAFFIC AND TRANSPORTATION:

Traffic counts taken along Eisenhower, a local road, numbered 2,378 in 2010. Staff is unaware of any complaints registered regarding the existing home and its proximity to the right-of-way.

ENVIRONMENTAL CONSIDERATIONS:

This five acre property has an elevation change of over 60' from its frontage on Eisenhower to the banks of the Wildcat. While topographically challenging, the site does have some level high ground, though that is traversed by a 100' wide utility easement, making most of the level ground unbuildable.

Petitioners' surveyors have submitted a site plan that delineates the flood plain line. The structure and proposed addition are outside of the 25' no build setback. Construction within the next 75' from the flood plain must meet Flood Protection Grade (2' above Base Flood Elevation—BFE). The BFE as shown on the site plan is 554' and the elevation of the proposed addition is approximately 40' above BFE at 592.86'.

STAFF COMMENTS:

The existing home, built in 1982 by a previous owner, is located on a ridge high above the Wildcat Creek. While providing for excellent vistas, its topography also presents challenges when trying to add onto the home. Staff spoke with the Building Commission to try to gain some insight as to why the home was originally built in violation of the setback; the building inspectors were unsure how the setback violation was overlooked in the 80s. While this does not make the home non-conforming, (non-conforming structures had to exist prior to enactment of the zoning ordinance) it was constructed—with a building permit—in violation of the ordinance. Staff can understand petitioner's desire to make the home legal but cannot recommend in favor of a setback variance to permit the proposed addition.

Even with the site challenges posed by topography and the utility easement, there exists room on site to construct an addition that meets setback requirements. Petitioners' proposed addition nearly doubles the footprint of the existing house; it is only their desire for an addition of this size that is prompting the need for a variance. Staff could recommend in favor of legitimizing the existing home.

Regarding the ballot items:

1. At its November 16, 2011 meeting, the Area Plan Commission determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. The proposed addition will be no closer to Eisenhower Road than the existing home that has stood since 1982.
3. Because all other side and rear setbacks will be met, use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to the majority of other properties in the same zoning district. The topography is very different from the relatively flat lots across Eisenhower.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. Without benefit of this variance, the current home, while built in violation of the front setback, could remain as is. Additionally, while the buildable area on this lot is limited by its topography and the utility easement, the size of the addition could be reduced or relocated to meet ordinance requirements.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed because it is only petitioners' desire to add on to the existing home that is necessitating the variance.

5b. A variance for the existing home with a 13' front setback could be considered minimum relief. But as requested, the variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship.

STAFF RECOMMENDATION:

Denial